

**REMARKS**

Claims 11-15, 17 and 20-27 are pending in this application. Claims 12-15, 17 and 20 are amended, claims 16, 18 and 19 are cancelled, and claims 21-27 are added.

**The Claimed Invention**

An exemplary embodiment of the invention, as recited by independent claim 11, is directed to a dishwasher with a door seal having a fixing area, a sealing element, and a sealing strip, the fixing area being connected to the sealing element by means of the sealing strip.

Another exemplary embodiment of the invention, as recited by new independent claim 21, is directed to a dishwasher with a door seal having a fixing area, a sealing element having a hollow tubular main body, a sealing strip, the sealing strip connecting the fixing area to the sealing element, and a sealing lip connected to and extending from the sealing element.

Conventional dishwasher door seals can rely on a simple sealing bead or a sealing strip that does not have a hollow tubular sealing element or a sealing lip extending from the sealing element. These conventional dishwasher door seals can provide inadequate sealing over time due to the relative movement between the door and the washing container.

An object of the invention is to provide a dishwasher door seal that provided adequate sealing for the life of the dishwasher, is easy to install, and is more difficult to remove than it is to install.

The invention addresses and solves these problems by providing a dishwasher with a door seal having a fixing area, a sealing element, and a sealing strip, the fixing area being connected to the sealing element by means of the sealing strip.

**The Hechtl Reference**

In the Office Action, claims 11-14 and 17 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Application Publication No. US 2002/0117194 to Hechtl. Applicants respectfully traverse the rejection.

Claim 11 includes the feature of a door seal having a fixing area, a sealing element, and a sealing strip. The sealing element is described in the specification as having features that increase longitudinal rigidity, such as the ribs and recesses 6 and the reinforcing ribs 7 (Page 5, lines 25-31). In contrast, Hechtl does not teach or suggest any features of the office action-defined sealing element (groove-like mount 15) that increase longitudinal rigidity.

Claims 12-14 and 17 are amended to depend from new claim 21. As a result, claims 12-14 and 17 include the features of a sealing element having a hollow tubular main body and a sealing lip connected to and extending from the sealing element. In contrast, Hechtl does not teach or suggest these features.

In view of the foregoing, Applicants respectfully submit that Hechtl does not disclose each and every feature of claims 11-14 and 17 and therefore rejection under 35 USC §102(b) is inappropriate. As a result, Applicants respectfully request withdrawal of the rejection.

**The Gobbi Reference**

In the Office Action, claims 11-14, 16, 18 and 19 were rejected under 35 U.S.C. 102(b) as being anticipated by EP 1 281 345 (“Gobbi”). Applicants respectfully traverse the rejection.

Claim 11 includes the feature of a door seal having a fixing area, a sealing element, and a sealing strip. The office action asserts that top arm M of Gobbi corresponds to the claimed fixing area. Applicants respectfully submit that top arm M cannot be the claimed fixing area because top arm M does not fix to anything. Top arm

M actually separates from tank V as door S is opened (see Figs. 3 and 4). Because top arm M does not fix to anything, Applicants respectfully submit that top arm M is not a fixing area as claimed in claim 11.

Claims 12-14 are amended to depend from new claim 21. As a result, claims 12-14 include the features of a sealing element having a hollow tubular main body and a sealing lip connected to and extending from the sealing element. In contrast, Gobbi does not teach or suggest these features. Claims 16, 18 and 19 are cancelled.

In view of the foregoing, Applicants respectfully submit that Gobbi does not disclose each and every feature of claims 11-14 and therefore rejection under 35 USC §102(b) is inappropriate. As a result, Applicants respectfully request withdrawal of the rejection.

**The Hechtl Reference in view of the Bertsch Reference**

In the Office Action, claim 15 was rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. US 2002/0117194 to Hechtl in view of U.S. Patent No. 5,115,826 to Bertsch. Applicants respectfully traverse the rejection.

Claim 15 is amended to depend from new claim 21. As a result, claim 15 includes the features of a sealing element having a hollow tubular main body and a sealing lip connected to and extending from the sealing element. In contrast, neither Hechtl nor Bertsch teaches or suggests these features.

Applicants respectfully request withdrawal of this rejection.

**The Hechtl Reference in view of the Redelsperger Reference**

In the Office Action, claims 16, 19 and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. US 2002/0117194 to Hechtl in view of French Publication No. 2 788 841 (“Redelsperger”). Applicants

respectfully traverse the rejection.

Claims 16 and 19 are cancelled.

Claim 20 is amended to depend from new claim 21.

Applicants respectfully submits that Redelsperger is not available to the Examiner for use in a rejection because Redelsperger is clearly non-analogous art. “[A] prior art reference must either be in the field of applicant’s endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*” (emphasis original, M.P.E.P. § 707.07(f). Redelsperger is neither within the field of Applicants’ endeavor nor reasonably pertinent to the particular problem with which the Applicants were concerned.

The field of Applicants’ endeavor is the dishwasher art. In stark contrast, the field of endeavor of Redelsperger is the oven art. One of ordinary skill in the art who is in the field of the dishwasher art would not have been familiar with, nor have looked to Redelsperger because Redelsperger is directed to the completely different, and unrelated field of ovens. Dishwasher design deals with waterproof seals, whereas ovens do not. Redelsperger is not within the field of Applicants’ endeavor.

Redelsperger is also not reasonably pertinent to the particular problem with which the Applicant was concerned. As clearly explained by the specification at, for example, page 1, lines 21-26, the Applicants were concerned with the problem of providing a robust waterproof seal between the door apron and the container lip of a dishwasher. In stark contrast, Redelsperger is concerned with the completely different and unrelated problems of providing a perimeter seal for an oven (Abstract). One of ordinary skill in the art who was concerned with the problem of providing a robust waterproof seal between the door apron and the container lip of a dishwasher as the Applicant was concerned would not have referred to Redelsperger because it is directed to the completely different and unrelated problem of providing a perimeter seal for an oven. Indeed, Redelsperger has absolutely nothing to do with the problem of providing a robust waterproof seal between the door apron and the container lip of a dishwasher. Thus,

Redelsperger is not reasonably pertinent to the particular problem with which the Applicants were concerned.

Applicants respectfully submit that Redelsperger is neither within the field of Applicants' endeavor nor reasonably pertinent to the particular problem with which the Applicants were concerned and, as such, is non-analogous art and therefore, unavailable for use in rejecting the claims.

Indeed, the citation of Redelsperger is a clear case of the use of impermissible hindsight reconstruction.

"In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious." (Emphasis original, M.P.E.P. 2141.02.I.)

"To reach a proper determination under 35 U.S.C. 103, the examiner must step backward in time and into the shoes worn by the hypothetical 'person of ordinary skill in the art' when the invention was unknown and just before it was made. In view of all factual information, the examiner must then make a determination whether the claimed invention 'as a whole' would have been obvious at that time to that person. Knowledge of applicant's disclosure must be put aside in reaching this determination, yet kept in mind in order to determine the 'differences,' conduct the search and evaluate the 'subject matter as a whole' of the invention. The tendency to resort to 'hindsight' based upon applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of facts gleaned from the prior art." (Emphasis added, M.P.E.P. § 2142).

In the present instance, the Examiner clearly did not locate Redelsperger during a search for relevant art that was within the field of Applicants' endeavor or reasonably related to the particular problem which the Applicants were concerned. Rather than viewing the invention as a whole as required, the claim was dissected to focus only upon

a hollow seal and the Examiner resorted to the use of hindsight in an attempt to locate anything that was related to a hollow seal. This was done likely through a keyword search. Regardless of the difficulty of avoiding hindsight, it is clear that impermissible hindsight is the only explanation for locating the non-analogous art of Redelsperger.

However, even if Redelsperger was available for use in the rejection of claim 20 (and Applicant strongly asserts that it is not), the combination of Hechtl and Redelsperger does not suggest the features of claim 20.

Claim 21 (and therefore claim 20) includes the feature of a sealing lip connected to and extending from the sealing element. In contrast, neither Hechtl nor Redelsperger teaches or suggests this feature.

Applicants respectfully request withdrawal of this rejection.

#### **New Claims**

New claims 21-27 include the features of a dishwasher door seal having a fixing area, a sealing element having a hollow tubular main body, a sealing strip, the sealing strip connecting the fixing area to the sealing element, and a sealing lip connected to and extending from the sealing element.

These and other features of claims 21-27 are not taught or suggested by the applied references.

**CONCLUSION**

In view of the above, entry of the present Amendment and allowance of claims 11-15, 17, 20-27 are respectfully requested. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,

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